

**Notice of Allowability**

Application No.

09/642,388

Examiner

Jingge Wu

Applicant(s)

BAWOLEK ET AL.

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 7/18/2005.
2. ☒ The allowed claim(s) is/are 22-36 renumbered as 1-15.
3. ☒ The drawings filed on 18 August 2000 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

JINGGE WU  
PRIMARY EXAMINER

### **Examiner's Amendment**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CAR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

The application has been amended as follows:

Cancel, claims 37-43.

### **Reasons for Allowance**

Applicants' response to the last Office Action, filed on July 18, 2005 has been entered and made of record.

The terminal disclaimer filed on July 18, 2005 has been entered and made of record.

The following is an examiner's statement of reasons for allowance:

Independent claims 22 and 28 are allowable over the prior art of record. Claims 23-27 and 29-36 depend from claims 22 and 28 respectively, therefore, are allowed.

Independent claim 22 recites the limitations of : producing a first set of responses from a spectrophotometer based on plurality of light radiation sources; producing a second set of responses from an imager by exposing the imager device to the plurality of light radiating sources; and determining calibrating coefficients from the

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produced sets of response. The combination of these features as cited in the claims in combination with the other limitations of the claims, are neither disclosed nor suggested by the prior art of record.

Independent claim 28 recites the limitations of : exposing a first imager device to a target to produce a first result; calculating the first result to produce the first set of calibrating coefficients; exposing the first image device to a plurality of light radiation sources to produce a first set of calibrating coefficients so as to create a pair of results; repeating the process by employing different imager devices to create the plurality of pair results and determining calibrating coefficients from the produced sets of pair results. The combination of these features as cited in the claims in combination with the other limitations of the claims, are neither disclosed nor suggested by the prior art of record.

The closest reference of US 5982957 to DeCaro et al. and US 6351308 to Mestha (combined) disclose a method of creating calibrating coefficients. However, they does not teach the limitations of cited above. The parent case, now US 6205244, has claims with similar scope.

In view of the amended claims and the Applicant's arguments , the double patenting and the rejections to claims 2-27 are expressly withdrawn.

#### **Contact Information**

Any inquiry concerning this communication or earlier communications should be directed to Jingge Wu whose telephone number is (571) 272-7429. He can normally be

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reached Monday through Thursday from 8:00 am to 4:30 pm. The examiner can be also reached on second alternate Fridays.

Any inquiry of a general nature or relating to the status of this application should be directed to TC customer service whose telephone number is (571) 272-2600.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Amelia Au, can be reached at (571) 272-7414.

The Working Group Fax number is (571) 273-8300.

Jingge Wu

Primary Patent Examiner

